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OFFICE OF PETITIONS

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|--------------------------------|---|-------------------------|
| In re Patent No. 6,934,744 | : | |
| Sogabe et al. | : | |
| Issue Date: August 23, 2005 | : | DECISION ON REQUEST FOR |
| Application No. 09/816,873 | : | RECONSIDERATION OF |
| Filed: March 22, 2001 | : | PATENT TERM ADJUSTMENT |
| Attorney Docket No. 5664-00200 | : | |

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT; AND APPLICATION FOR PATENT TERM ADJUSTMENT" filed July 8, 2005. Patentees request that the patent term adjustment indicated in the patent be corrected from six hundred seventy-five (675) days to one thousand two hundred forty-five (1245) days.

The request for reconsideration of the patent term adjustment indicated in the patent is **DISMISSED**.

Patentees are given **TWO (2) MONTHS** from the mailing date of this decision to respond. No extensions of time will be granted under § 1.136.

On August 23, 2005, the above-identified application matured into U.S. Patent No. 6,934,744. The instant request for reconsideration filed July 8, 2005, was timely filed along with payment of the Issue Fee. The Patent issued with a Patent Term Adjustment of 675 days. Patentees request correction of the patent term adjustment to increase the patent term adjustment to 1245 days on the basis that the patent issued 3 years and 519 days after the date on which the application was filed (and patentees agree with the periods of reduction totaling 9 days).

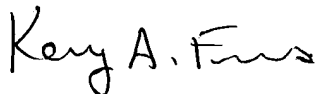
It is agreed that the instant patent issued 3 years and 519 days after its filing date. However, if an application is entitled to

an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004). In this instance, the period of delay of 684 days attributable to grounds specified in § 1.702(a)(1) overlaps with the 519 days attributable to the delay in the issuance of the patent. Thus, the period of adjustment cannot exceed the actual number of days of delay of 684 days.

In view thereof, the patent properly issued with a patent term adjustment of 675 days (684 - 9 days).

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Telephone inquiries specific to this matter should be directed to Nancy Johnson, Senior Petitions Attorney, at (571) 272-3219.



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